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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding Observations of the Committee on the Rights of the Child

MEXICO

1. The Committee considered the second periodic report of Mexico (CRC/C/65/Add.6) and its supplementary report (CRC/C/65/Add.16) at its 568th and 569th meetings (see CRC/C/SR.568-569), held on 27 September 1999, and adopted* the following concluding observations.

A. Introduction

2. While welcoming the submission of the State party's second periodic report, the Committee regrets that the report did not follow the guidelines for reporting. The Committee also welcomes the supplementary report as well as the wealth of information provided by the State party's delegation in the course of its dialogue with the Committee. The Committee notes with appreciation the written replies to the list of issues (CRC/C/Q/MEX/2), while regretting their late submission. In particular, the Committee is encouraged by the statement made by the State party's delegation that the Convention is used by the State party as the guiding tool for action in the field of children's rights. The Committee is encouraged by the constructive and open dialogue it had with the State party's delegation.

* At the 586th meeting, held on 8 October 1999.

B. Follow-up measures undertaken and progress achieved by the State party

3. The establishment of initiatives such as the National Programme of Action for Children (1995-2000), the National Development Plan (1995-2000), and the Programme for Education, Health and Nutrition (PROGRESA) are regarded as positive measures in line with the Committee's recommendations (see CRC/C/15/Add.13, para. 16). In this regard, the Committee welcomes the fact that the State party, one of the six countries that convened the World Summit for Children in 1990, has undertaken measures, in conjunction with the other conveners, to hold a series of events to evaluate and follow up the commitments made by States in 1990.

4. In the light of the Committee's recommendation (CRC/C/15/Add.13, para. 19), the Committee welcomes the multiple measures undertaken by the State party, in particular by the National Commission of Human Rights (CNDH) and the National System for the Integral Development of the Family (DIF), to create awareness of the principles and provisions of the Convention. In this regard, the holding of the Children's Federal Elections (1997), an illustration of the principle of respect for the views of the child (art. 12 of the Convention), is also welcomed by the Committee.

5. The Committee welcomes the State party's accession (1999) to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (the Belem do Pará Convention) and the legislative reform process aimed at making domestic violence a crime in the State party's domestic legislation. The Committee considers these as positive measures to combat gender discrimination and child abuse and ill-treatment, in line with the Committee's recommendation (CRC/C/15/Add.13, para.18).

6. The Committee welcomes the State party's accession (in 1994) to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption in line with the Committee's recommendation (CRC/C/15/Add.13, para. 18). The State party's accession (in 1999) to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is also welcomed by the Committee.

7. The Committee also welcomes the implementation of the Reciprocal Programme for Obtaining Maintenance Fees (URESA/RURESA) signed between the State party and the United States of America, which has particular importance owing to the high emigration rate of Mexican nationals to that country.

8. The Committee welcomes the measures taken by the State party to prevent and combat the abuse of drugs by children and, in particular, the agreement signed between the State party, UNICEF and the United Nations Drug Control Programme (UNDCP) to work jointly to prevent and combat drug abuse by children.

C. Factors and difficulties impeding further progress in the implementation of the Convention

9. The Committee notes that widespread poverty and long-standing economic and social disparities within the State party are still affecting the most vulnerable groups, including

children, and hampering the enjoyment of the rights of the child in the State party. The Committee also notes that this situation has been particularly aggravated by severe economic crises and drastic economic reforms.

D. Principal subjects of concern and Committee recommendations

D.1. General measures of implementation

10. While noting the measures taken by the State party to implement the Committee's recommendation (CRC/C/15/Add.13, para. 15) concerning the need to harmonize domestic legislation with the Convention, in particular in relation to the process for enacting the Child Protection Code, the Committee remains concerned that current domestic legislation on children's rights, both at the federal and State levels, does still not reflect the principles and provisions of the Convention and that measures taken to harmonize domestic legislation seem somewhat fragmented and do not take into consideration the holistic approach of the Convention. **The Committee reiterates its recommendation that the State party continue its process of legislative reform to ensure that domestic legislation relating to children's rights, both at the federal and state levels, is in full conformity with the principles and provisions of the Convention and reflects its holistic nature.**

11. The Committee welcomes the appointment of 32 state procurators for the defence of the rights of the child and the family and takes note of the proposals to enact a general act establishing the role and powers of their offices. However, the Committee is concerned about the limited powers and resources, both financial and human, of these offices to function in an effective manner for the protection of children's rights. **The Committee recommends that the State party continue its efforts, including legislative measures, to strengthen the mandate and independence, both at the federal and state levels, as well as to increase the resources, both financial and human, of the offices of the state procurators for the defence of the rights of the child and the family.**

12. With regard to the Committee's recommendation (CRC/C/15/Add.13, para. 15), the Committee welcomes the measures taken by the Ministry of Health and the national System for the Integral Development of the Family (DIF) in the coordination and monitoring of the implementation of the National Plan of Action (1995-2000) and takes note of the establishment of the National System for the Follow-up and Monitoring of the Implementation of the Convention (1998). However, the Committee remains concerned that the National System is only operational in seven states of the State party's territory. **In this regard, the Committee recommends that the State party continue taking effective measures to accelerate the establishment, within the framework of the National System for the Follow-up and Monitoring of the Convention, of commissions, at the federal and state levels, to guarantee the implementation of the Convention. In addition, the Committee encourages the State party to continue working in close cooperation with non-governmental organizations active in the field of children's rights. Furthermore, the Committee recommends that non-governmental organizations be included in the design and implementation of policies and programmes carried out by the National System.**

13. While taking note of the statistics on the situation of children contained in the supplementary report provided by the State party, in particular those developed for monitoring the National Plan of Action for Children (1995-2000), the Committee remains concerned about the lack of disaggregated data for all areas covered by the Convention. **The Committee recommends that the State party continue reviewing and updating its data collection system, with a view to including all areas covered by the Convention. In addition, the Committee encourages the State party to use the information provided by its next population census (2000) as a basis for the development of disaggregated data on children's rights. Such a system should include all children under 18 years of age, and specifically emphasize the situation of vulnerable groups of children, as a basis for assessing progress achieved in the realization of children's rights and to help design policies for better implementation of the provisions of the Convention. In this regard, the Committee encourages the State party to seek technical assistance from, inter alia, UNICEF.**

14. With regard to the provision of training for professionals working with and for children (see Committee's recommendation, CRC/C/15/Add.13, para. 19), the Committee welcomes the efforts undertaken in this area, in particular by the National Commission of Human Rights (CNDH) and DIF. **The Committee encourages the State party to continue implementing systematic education and training programmes on the provisions of the Convention for parliamentarians and all professional groups working for and with children, such as judges, lawyers, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers. Technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF could be requested in this regard.**

15. In the light of its recommendation (CRC/C/15/Add.13, para.16), the Committee welcomes the measures undertaken by the State party in designing and implementing social policies and programmes for children. Nevertheless, the Committee remains concerned that, despite the State party's measures in this area, poverty and social and regional inequalities are still affecting a large number of children and their families. **The Committee reiterates its recommendation (CRC/C/15/Add.13, para. 16) that such measures should be undertaken "to the maximum extent of ... available resources" in the light of articles 2, 3 and 4 of the Convention. The Committee further recommends that the State Party give priority to ensuring that sufficient budgetary allocation is provided to social services for children and that particular attention is paid to the protection of children belonging to vulnerable and marginalized groups.**

D.2 Definition of the child

16. The Committee expresses its concern that the minimum legal ages for marriage of boys (16) and girls (14) in most of the states of the State party are too low and that these ages are different for boys and girls. This situation is contrary to the principles and provisions of the Convention and constitutes a form of gender-based discrimination which affects the enjoyment of all rights. **The Committee recommends that the State party undertake legislative reform, both at the federal and state levels, to raise and equalize the minimum legal ages for marriage of boys and girls.**

D.3 General principles

17. The Committee welcomes the information provided by the State party about the national public referendum regarding the rights of the child and takes note of the process of constitutional reform generated by this referendum; both initiatives are in line with the Committee's recommendation (CRC/C/15/Add.13, paras. 15 and 16). **In this regard, the Committee encourages the State party to continue these initiatives with the aim of introducing into the Constitution the principles of non-discrimination and the best interests of the child (arts. 2 and 3 of the Convention).**

18. While the Committee acknowledges the State party's measures to implement the Committee's recommendation (CRC/C/15/Add.13, para. 18) concerning the protection of the rights of the most vulnerable groups of children, in particular the measures carried out by PROGRESA, DIF, the National Indigenous Institute (INI) and CONMUJER, the Committee is of the opinion that these measures need to be reinforced. **The Committee reiterates its recommendation and further recommends that the State party increase measures to reduce economic and social disparities, including between urban and rural areas, to prevent discrimination against the most disadvantaged groups of children, such as girls, children with disabilities, children belonging to indigenous and ethnic groups, children living and/or working on the streets and children living in rural areas.**

19. The Committee takes note of the efforts made in the field of legislative reform to integrate the principles of "best interests of the child" (art. 3) and "respect for the views of the child" (art. 12) into domestic legislation, at both state and federal levels. Nevertheless, the Committee remains concerned that these principles are not fully implemented. **The Committee recommends that further efforts be made to ensure the implementation of the principles of "best interests of the child" and "respect for the views of the child", especially his or her rights to participate in the family, at school and in other social institutions. These principles should also be reflected in all policies and programmes relating to children. Awareness raising among the public at large, including community leaders, and educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children who are too often regarded as the objects (*Doctrina de la Situación Irregular*) rather than the subjects of rights.**

20. In the light of article 6 and other related provisions of the Convention, the Committee expresses its concern about the threat to the right to life of children caused by the degree of militarization in the State party and the confrontations with "irregular armed civilian groups" in parts of the State party's territory, especially in the states of Chiapas, Oaxaca, Guerrero and Veracruz. **The Committee recommends that the State party take effective measures to protect children against the negative effects of these confrontations. The establishment of rehabilitation measures for child victims of these confrontations is also recommended.**

D.4 Civil rights and freedoms

21. Although the State party has made significant progress in the area of birth registration, the Committee is of the opinion that greater efforts are needed to ensure that all children are registered, especially those belonging to the most vulnerable groups. **The Committee**

recommends that the State party strengthen its measures to ensure the immediate registration of the birth of all children, especially of those living in rural and remote areas and belonging to indigenous groups.

22. With regard to the State party's initiatives to promote children's participatory rights, the Committee is of the opinion that these efforts need to be improved and strengthened. **In the light of articles 12, 13, 14 and 15 of the Convention, the Committee recommends that further measures be undertaken to promote the participation of children in the family, at school and in other social institutions, as well as to guarantee their effective enjoyment of the fundamental freedoms, including those of opinion, expression and association.**

23. Although the Committee notes with appreciation the measures taken by the State party to comply with the Committee's recommendation (CRC/C/15/Add.13, para.17), it remains concerned about the persistent number of alleged cases of children who have been detained in extreme conditions which amount to cruel, inhuman or degrading treatment, and cases of children physically ill-treated by members of the police or the armed forces. **The Committee recommends that the State party reinforce its judicial mechanisms to deal effectively with complaints of police brutality, ill-treatment and abuse of children, and that cases of violence and abuse against children be duly investigated in order to avoid the impunity of perpetrators. In this regard, the Committee endorses the recommendations made by the Committee against Torture in May 1997 (A/52/44, paras. 166-170).**

D.5. Family environment and alternative care

24. While the Committee welcomes the measures taken by the State party to comply with the Committee's recommendation (CRC/C/15/Add.13, para. 18), it is still concerned about the insufficient alternative care measures for children deprived of a family environment. **The Committee recommends that the State party continue taking the necessary steps to develop alternatives to institutional care of children (e.g. domestic adoption and foster care). The Committee also recommends that the State party reinforce its monitoring and evaluation system to ensure the adequate development of children living in institutions. The Committee encourages the State party to continue taking measures to review periodically the placement and treatment of children, as enshrined in article 25 of the Convention.**

25. Although the Committee takes note of the establishment of the National Programme against Domestic Violence, 1999-2000 (PRONAVI), it remains concerned that, as acknowledged in the State party's report, physical and sexual abuse - within and outside the family - is a serious problem in the State party. Concern is also expressed that domestic legislation, at both the federal and state levels, does not explicitly prohibit the use of corporal punishment in schools. **In the light of, inter alia, articles 19 and 39 of the Convention, the Committee recommends that the State party continue taking effective measures, including setting up multidisciplinary treatment and rehabilitation programmes, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It suggests that law enforcement should be strengthened with respect to such crimes, that adequate procedures and mechanisms to deal effectively with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and that the use of corporal punishment at home, in schools and other institutions, be explicitly**

prohibited by law. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. The Committee encourages the State party to consider seeking international cooperation to this effect from, inter alia, UNICEF and international non-governmental organizations.

D.6. Basic health and welfare

26. With regard to the measures taken to improve the health standards of children, in particular initiatives to the reduce infant mortality, the Committee remains concerned at the persistence of regional disparities in access to health care, at the high rates of malnutrition among children under five years of age and those of school age, especially in rural and remote areas and among children belonging to indigenous groups. **The Committee recommends that the State party continue taking effective measures to ensure access to basic health care and services for all children. More concerted efforts need to be taken to guarantee equal access to health care and to combat malnutrition, with special emphasis on children belonging to indigenous groups and children living in rural and remote areas.**

27. While welcoming the State party's initiatives and programmes in the field of adolescent health, in particular those of the National Programme of Prevention to Adolescent Mothers and the National Council for the Prevention and Control of HIV/AIDS (CONASIDA), the Committee remains concerned at the high teenage maternal mortality rate and the high number of teenage pregnancies. **The Committee recommends that the State party continue its efforts to prevent the spread of HIV/AIDS and that it take into consideration the recommendations adopted by the Committee on its day of general discussion on "Children living in a world of HIV/AIDS" (CRC/C/80). The Committee also recommends that further efforts be undertaken for the development of child-friendly counselling services and of care and rehabilitation facilities for adolescents.**

D.7. Education, leisure and cultural activities

28. While the Committee notes with appreciation the State party's achievements in the field of education, it remains concerned about the high drop-out and repetition rates in primary and secondary schools, and the disparities in access to education between rural and urban areas. The Committee is particularly concerned about the situation of children belonging to indigenous groups regarding their access to education and the low relevance of the current bilingual educational programmes available for them. **In the light of articles 28, 29 and other related articles of the Convention, the Committee recommends that the State party continue its efforts in the field of education by strengthening its educational policies and system in order to reduce regional disparities in access to education and to strengthen ongoing retention programmes and vocational training for drop-out students. The Committee also recommends that the State party continue taking effective measures to improve the educational situation of children belonging to the most vulnerable groups, in particular, with regard to bilingual education programmes for children belonging to indigenous groups. The Committee encourages the State party to consider seeking technical assistance in this area, inter alia, from UNICEF and UNESCO.**

D.8. Special protection measures

29. Although the Committee is aware of the measures taken by the State party, in particular by INI, it remains concerned about the living conditions of children belonging to indigenous groups, especially with regard to the full enjoyment of all the rights enshrined in the Convention. **In the light of articles 2 and 30 of the Convention, the Committee recommends that the State party take effective measures to protect children belonging to indigenous groups against discrimination and to guarantee their enjoyment of all the rights recognized by the Convention on the Rights of the Child.**

30. While welcoming the fact that the State party's legislation complies with international labour standards and the measures taken for the eradication of child labour, the Committee is still concerned that economic exploitation remains one of the major problems affecting children in the State party. The Committee is particularly concerned that the State party, in its second periodic report, categorized only "street children" as "working children". The Committee is of the opinion that this misconception affects the scope and perception of this social phenomenon. In this regard, the Committee is particularly concerned that a large number of children are still involved in labour activities, especially in the informal sector and in agriculture. The Committee expresses its concern at the insufficient law enforcement and the lack of adequate monitoring mechanisms to address this situation. **In light of, inter alia, articles 3 and 32 of the Convention, the Committee recommends that the State party reconsider its position regarding the issue of child labour. The situation of children involved in hazardous labour, especially in the informal sector, deserves special attention. Furthermore, the Committee recommends that child labour laws should be enforced, the labour inspectorates strengthened and penalties imposed in cases of violation. The Committee recommends that the State party consider seeking technical assistance from the International Labour Organization's International Programme for the Elimination of Child Labour (IPEC). The Committee encourages the State party to consider ratifying ILO Convention (No 138) regarding Minimum Age for Admission to Employment (1973) and the new ILO Convention (No 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).**

31. In view of the assessment and recommendations made by the Special Rapporteur on the sale of children, child prostitution and child pornography (see E/CN.4/1998/101/Add.2) regarding the situation of the sexual exploitation of children in Mexico, the Committee welcomes the measures taken by the State party to combat this phenomenon, in particular, the establishment of the Inter-institutional Commission to Eradicate the Sexual Exploitation of Children. **In this regard, and in the light of article 34 and other related articles of the Convention, the Committee recommends that the State party take all effective measures to implement the recommendations made by the Special Rapporteur following her visit to Mexico. In particular, the Committee recommends that the State party conduct a study on the issue of commercial sexual exploitation of children with a view to designing and implementing appropriate policies and measures, including care and rehabilitation; and that it reinforce its legislation, including punishment against perpetrators; and that it conduct awareness raising campaigns on this issue.**

32. **While the Committee is aware of the measures taken by the State party on the situation of "repatriated children" (*menores fronterizos*), it remains particularly concerned that a great number of these children are victims of trafficking networks, which use them for sexual or economic exploitation. Concern is also expressed about the increasing number of cases of trafficking and sale of children from neighbouring countries who are brought into the State party to work in prostitution. In this regard, the Committee recommends that the State party continue taking effective measures on an urgent basis to protect Mexican migrant children, to strengthen law enforcement and to implement the State party's national programme of prevention. In an effort to combat effectively intercountry trafficking and sale of children, the Committee suggests that the State party increase its efforts in the area of bilateral and regional agreements with neighbouring countries to facilitate the repatriation of trafficked children and encourage their rehabilitation. Furthermore, the Committee endorses the recommendations made by the Special Rapporteur on the sale of children, child prostitution and child pornography following her visit to Mexico (see E/CN.4/1998/101/Add.2) with regard to the situation of children living in border areas.**

33. With regard to the administration of the juvenile justice system, the Committee remains concerned that:

(a) Federal and state legislation is not all in accordance with the principles and provisions of the Convention, especially regarding the low age of criminal responsibility;

(b) Deprivation of liberty is not systematically used only as a measure of last resort;

(c) Children are often detained together with adults in police stations;

(d) Cases are processed at a slow pace;

(e) Detention centres have very poor conditions;

(f) Juveniles have insufficient access to legal assistance;

(g) Insufficient rehabilitation measures exist for juvenile offenders;

(h) There is insufficient supervision and monitoring in detention centres;

(i) There is limited trained staff in detention centres.

In the light of articles 37, 40 and 39 and other relevant standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Committee recommends that the State party:

(a) Effectively implement a juvenile justice system in accordance with the Convention and other related international standards;

(b) Ensure the improvement of the conditions of children living in prisons and detention centres;

(c) Develop centres for the rehabilitation of children in conflict with the law;

(d) Prohibit the use of violence by law enforcement officials;

(e) Ensure that the use of deprivation of liberty is used only as a measure of last resort;

(f) Guarantee prompt access to justice for children in pre-trial detention;

(g) Develop alternative measures to deprivation of liberty;

(h) Strengthen its training programmes on the relevant international standards, for judges, professionals and staff working in the field of juvenile justice.

Furthermore, the Committee suggests that the State party consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, UNICEF and the International Network on Juvenile Justice through the Coordination Panel on Juvenile Justice.

34. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the periodic report and written replies submitted by the State party be made widely available to the public at large and that consideration be given to publishing the report, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.